

## REMARKS

Reconsideration and withdrawal of the rejection with respect to Claims 1-16 is respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be emphasized that, at the heart of Applicant's invention, is a system to color code candle wicks so that they can be easily identified by type, properties, or other candle characteristics (burning time, etc.) before, during and after candle production. As pointed out in the specification, the use of a wrong candle wick for a particular type of candle can create not only an aesthetic, but also a safety issue as well. The wrong wick can cause a candle to become a dangerous article of combustion which results in dangerous, and sometimes fatal fires (see paragraph bridging pages 3 and 4 of the application).

As a result of the many thousands of different wick types and the many different manufacturers, it is impossible to identify a wick accurately by visual examination, even with the aid of a magnifying device. One must rely on the label affixed to the spool which can be mislabeled. Moreover, while attempts have been made to identify wicks, i.e. by printing information on paraffin coded wicks and wicks have also been striped (like a barber's pole) to also provide identification, these wicks are considered to be visually and aesthetically unacceptable (see page 4, second and third paragraphs).

The present invention overcomes this problem by providing a candle wick having a candle wick body comprising an outer surface being substantially monochromatic and an inner region including at least one colored identification filament which is not visible

to the outer surface of the candle wick and which is color coded to identify at least one candle wick characteristic, e.g., wick type, yield, rate of combustion, manufacturer, etc. (see pg. 11, 1<sup>st</sup> paragraph). As further noted in the paragraphs bridging pages 5 and 6 of the application, the candle wicks according to the invention are coded at the time of manufacture and therefore maintain the proper coding throughout their chain of custody from the manufacturer to the consumer. The wick identification can be read at any time, even after the candle is consumed. Thus, fire investigations are assisted and product liability evidence is preserved in the case of improperly manufactured candles.

Despite the fact that candles have been known for thousands of years and that prior attempts to identify wicks have been made (but failed - see pg. 4, 3<sup>rd</sup> paragraph), no one has solved this problem until now. By this Amendment, independent Claims 1 and 9 have been amended to more particularly clarify the novel features of the invention and the distinctions thereof over the cited art. More particularly, Claims 1 and 9 have been amended to define a candle wick body having at least one colored identified filament which is colored coded to identify at least one characteristic of the candle wick. As will be discussed below, none of the prior art, either applied alone or in combination, disclose or suggest the invention as now claimed.

Turning now to the rejection of Claims 1-16 as being obvious over Japan '202 in view of Weston and O'Rourke, Applicant agrees with the Examiner that Japan '202 does not disclose an outer surface being substantially monochromatic and the inner region including at least one colored identification filament that is not visible on the outer surface of the candle wick. Moreover, it is respectfully submitted that neither of

the secondary references of Weston and O'Rourke cure these basic and crucial deficiencies of Japan '202.

More particularly, Weston, a 1932 patent, discloses a telephone cable wherein an identifying color or mark to the paper insulation of the conductors is provided in order to be able to distinguish the conductors from one another and/or the groupings thereof. On the other hand, O'Rourke discloses a 1998 patent for a chew toy for dogs formed of a length of composite rope having an inner core defined by one or more strands of twisted threads of natural plant or synthetic fibers and a soft outer shell defined by a plurality of strands of soft pliable cotton threads which are twisted about the inner core. The construction is intended to provide a crunchy texture and sound when chewed by the dog while providing a cleaning and flossing of the dog's teeth and a gentle massaging of its gums (col. 2, lines 13-15).

Clearly, neither of these patents relate to the identification of candle wick characteristics and it is respectfully submitted that both patents relate to non-analogous art and are improperly combined with Japan '202 which is the only patent cited and relied upon which relates to a candle wick. Clearly, one in the field of designing candle wicks would not look to either telephone cables or a dog chew toy for inspiration. Moreover, neither patent discloses or suggests the desirability of combining their teachings with that Japan '202 and, therefore, it is respectfully submitted that it is only through hindsight reasoning in light of Applicant's disclosure that such a combination can be made and this is clearly patently improper.

In light of the fact that the candle wick art has been around for thousands of years and this telephone cable art as represented by Weston has been around for over

seventy years, this is further evidence that Applicant's invention is novel and non-obvious since no one has thought in all this time to combine their teachings in the manner proposed in the Office Action.

Indeed, while the claimed coded wicks seems simple and obvious in hindsight, it was not obvious at the time of the invention, since it is quite clear that those working in the field did not accomplish the inventor's results. That fact supports the conclusion that the Applicant herein achieved a patentable invention. *Schnell et al. v. The Albright-Nell Company et al.*, 146 USPQ 322 (7<sup>th</sup> Cir. 1965). Furthermore, it should be pointed out that the fact that these prior patents were in use for many years prior to the invention negate any inference that the invention was obvious. *H.K. Porter co., Inc. v. Goodyear Tire & Rubber Co.*, 163 USPQ 106, (District Court, N.D. Ohio, Eastern Division, 1969); *Abington Textile Machinery Works v. Carding Specialist (Canada) Ltd.* 148 USPQ 32 (D.C. Dist. of Col., 1965).

Moreover, as noted above, in order for the teachings of these patent references to be properly combined there must be some suggestion in the patents themselves which would suggest the desirability of such a combination. The mere fact that prior art may be modified to produce the claimed invention does not make the modification obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 23 USPQ 2d 1780 (Fed. Cir. 1992). Such suggestion is clearly lacking here, necessarily causing the asserted combination to fail in rendering the claimed invention obvious.

Concerning the objections to Figs. 1, 4, 7, and 10, enclosed herewith are new formal drawings to resolve the new matter objection.

Finally, Applicant hereby requests a three month extension of time in which to respond to the outstanding Office Action. Credit Card payment form no. PTO-2038 in the amount of \$1,020.00 is enclosed . Any fee deficiency or overpayment may be charged or credited to applicant's Deposit Account No. 07-0130.

In summary, the present invention affords the candle industry with a color coding system by which to optimize candle combustion more quickly, efficiently, and precisely. None of the cited patents, either alone or in combination disclose or suggest this novel technique. Accordingly, reconsideration and withdrawal of the rejection and allowance of Claims 1-16 at an early date is earnestly solicited.

Respectfully submitted,

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Enclosures: Four (4) sheets of Revised Drawings (Figs. 1, 4, 7, and 10)  
USPTO Form 2038 in the amount of \$1,020.00  
Postcard

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on January 20, 2005

By: 

THOMAS M. GALGANO

Date: January 20, 2005